



# **SCHEME FOR REPRESENTATION ON OUTSIDE BODIES**

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## **1. INTRODUCTION**

1.1 Councillors are frequently nominated or appointed by their Councils to Outside Bodies. The contributions which they make are generally much appreciated by the organisations concerned. Moreover, Councils have the benefit of the additional knowledge and expertise which Councillors gain through membership, subject to the provisions of the Councillors' Code of Conduct, of these organisations in discussing a range of issues within the Council Chamber.

1.2 Councillors need to consider the implications and responsibilities of being involved with Outside Bodies and Officers will provide advice and guidance where necessary.

1.3 Audit Scotland in their 'Following the Public Pound' report in December 2005 recommended that Councils should develop a corporate register of all support for Arms Length External Organisations (ALEOs). This should enable councils to track both financial and non-cash support, and the extent to which ALEOs contribute to council objectives. Having an up-to-date Scheme for Representation on Outside Bodies will facilitate compliance with Audit Scotland's recommendations.

1.4 In 2004/5 the Business Review and Performance Committee undertook a comprehensive review of Council funding for the Voluntary Sector. Many of the current Outside Bodies annexed to this scheme fall into this category.

1.5 Dumfries and Galloway Council plays an active part in Community Planning as part of the Scottish Executive's modernisation agenda for local government and, as Outside Bodies are an integral part of the local community, many of the Community Planning guidelines and protocols may be applied to Outside Bodies.

1.6 This Scheme reflects the current position of the Council regarding Outside Bodies and is intended to provide a firm base for future reference and for the new Council in May 2007. It is the first such Scheme and will form part of the Council's Standing Orders and Schemes of Delegation.

1.7 A current list of existing Outside Bodies, their appointing Committee and membership is annexed to this Scheme.

## **2. BACKGROUND**

2.1 The legal categories of Outside Bodies to which Councillors are appointed include Voluntary Organisations, Clubs, Limited Liability Companies, Industrial and Provident Societies, Trusts and Statutory Bodies.

2.2 Elected Member appointments to Outside Bodies are made in one of three ways:

- By appointment from a Service Committee
- By appointment from Full Council or the Corporate Policy Committee where the Outside Body does not fall within the functions or responsibilities of a Service Committee
- By appointment from an appropriate Area Committee where the Outside Body has a specific local connection

2.3 Officer support for Councillors appointed to Outside Bodies is the responsibility of the Service to which that Outside Body falls. Where there is a change in an appointment to an Outside Body, the centrally held record at Committee and Member Services will be updated.

2.4 At its meeting on 15 April 2003, the Executive Committee of the Council agreed the following criteria to be applied when making Elected Member appointments to Outside Bodies.

- Bodies which have charitable status and whose legal constitution requires Elected Member(s)
- Bodies whose stated aims or constitution directly contribute to one of the Community or Corporate Plan Objectives, Priorities, Targets or Actions
- Organisations who receive funding from the council on an annual basis (for three years or more) of more than £5,000 per annum
- Organisations with which the Council has a Service Level Agreement

2.5 At least one of these criteria requires to be met when considering making an appointment to an Outside Body.

### **3. COUNCILLORS' ROLE ON OUTSIDE BODIES**

#### **3.1 What to do before the appointment is made**

3.1.1 The following five issues should be considered by Councillors before accepting nominations or appointments. These apply no matter what kind of organisation is involved. Legal or financial advice should be requested from Council's officers in obtaining relevant documentation and then analysing its contents.

1. Is the organisation properly constituted?
2. Is the organisation properly financed and liquid?
3. What is expected of the Councillor's role in the Outside Body?
4. Is there appropriate insurance in place?
5. Would any Conflicts of Interest apply?

3.1.2 The Councillors' Code of Conduct provides guidance to Councillors on specific areas such as potential Conflicts of Interest between their role on Outside Bodies and their role as Council Member.

3.1.3 Where a Councillor has an interest as a member of an Outside Body, such a Councillor may be obliged to declare an interest under section 5 of the Code when matters arise concerning the Outside Body to which he or she has been nominated or appointed and may also be unable to take part in the discussion or voting on that matter.

3.1.4 The Standards Commission is of the view that the public interest would be served if, in certain circumstances, Councillors should be allowed to participate in discussion and voting on matters relating to certain Outside Bodies to which they have been appointed directly by, or on the nomination or with the approval of, their own authority.

3.1.5 Accordingly, in terms of paragraphs 5.20 and 5.21 of the Code, the Commission grants a dispensation to any Councillor who has been nominated or appointed or whose appointment has been approved by the Councillor's local authority and who has registered an interest under section 4 of the Code as a member of certain listed organisations.

3.1.6 The dispensation does not apply in respect of any matter of a quasi-judicial or regulatory nature where the body in question is applying to the local authority for a licence, a consent or an approval, is making an objection or representation concerning such a licence, consent or approval or is the subject of a statutory order of a regulatory nature, made, or proposed to be made, by the local authority.

3.1.7 This dispensation applies to meetings of the Council and of any committee or sub-committee of the Council and to other meetings as referred to in paragraph 5.4 of the Code.

3.1.8 The Councillor is required to declare his or her interest at all meetings where matters relating to the body in question are to be discussed.

3.1.9 Committee reports seeking the appointment of an Elected Member to an Outside Body will comply with the template issued by the Council's Governance Officer.

### **3.2 Non-Financial Interests**

3.2.1 If a Member has registered a non-financial interest under category seven of Section 4 they have recognised that it is a significant non-financial interest. There is, therefore, a very strong presumption that this interest will be the subject of declaration in any context where there is any link between a matter which requires their attention as a Councillor and the registered interest.

3.2.2 As a Councillor, they will serve on other bodies as a result of express nomination or appointment by their Council or otherwise by virtue of being a Councillor. Their membership of statutory Joint Boards or Joint Committees which are composed exclusively of Councillors does not raise any issue of declaration of interest in regard to Council business. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, they must decide, in the particular circumstances surrounding any matter, whether to declare a non-financial interest. Only if they believe that, in the particular circumstances, the nature of the interest is irrelevant or without significance, should it not be declared.

3.2.3 Councillors will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of their private and personal interests and not because of their role as a Councillor. In the context of any particular matter they will have to decide whether to declare a non-financial interest.

3.2.4 They should declare an interest unless they believe that, in the particular circumstances, the interest (whether taking the form of association or the holding of office) is irrelevant or without significance. In reaching a view they should consider how the public, acting reasonably, would perceive their interest - remembering that the public will view the interest as being that of a Councillor rather than an ordinary member of the public.

### **3.3 Frequent Declarations of Interest**

3.3.1 Public confidence in a local authority is damaged by perception that a Council's decisions are substantially influenced by factors other than the public interest. If they would have to declare interest frequently at meetings of a particular committee or in respect of any role which they are asked to discharge as a Councillor, they should not accept a role or appointment with that attendant consequence.

3.3.2 Similarly, if any Council appointment or nomination to another body would give rise to objective concern because of their existing personal involvements or affiliations, they should not accept the appointment or nomination.

### **3.4 What to do during the appointment**

3.4.1 Administrative Paperwork. Councillors should ensure they have access to all documents, reports, accounts and advice to enable them to make informed decisions.

3.4.2 Attendance at Meetings. Councillors should attend meetings regularly and keep their own records of what happens at meetings. After the meeting, minutes should be examined, checked, questioned if necessary, and retained for future reference.

3.4.3 Ask for Advice. Councillors should encourage the body concerned to take professional advice where needed. Councillors should then ensure that the advice is accepted and acted upon.

3.4.4 A dissenting voice. If decisions are taken with which Councillors strongly disagree, or which Councillors feel are unlawful or unconstitutional, then they should ensure that their dissent is formally recorded in the Minutes of the meeting. They may also wish to follow that up with a letter to the Chair or the Secretary or other responsible officer to put that dissent on record.

3.4.5 Constant Review and Vigilance – throughout their appointment, Councillors should keep in mind that the body has to act in accordance with its own constitution and procedural rules. They should ensure that the duties asked of them are in accordance with this constitution and with the role as it was explained to them prior to their appointment. They should also be alert to the possibility of legal liability and conflicts of interest.

3.5 Advice and support is available to Councillors in carrying out their role on Outside Bodies. Training on Outside Bodies will also form part of the new induction package for incoming Councillors after the Council elections in May 2007.

#### **4. COUNCIL FUNDING OF OUTSIDE BODIES**

4.1 The Council funds arms-length and external organisations (ALEOs) to provide important services to the public, or to provide social benefits such as employment opportunities. These funding arrangements are often more complex than purchase contracts for goods or services.

4.2 To ensure that public money is used properly and achieves value for money, it must be possible to trace funds from the council to where they are ultimately spent – to ‘follow the public pound’ across organisational boundaries.

4.3 The Council provides ALEOs with non-cash support through the free or low-cost use of council properties, vehicles and facilities. This support needs to be considered as part of the Councils’ overall approach to asset management.

4.4 The Council adopts a consistent and comprehensive approach to risk management that takes account of factors such as the amounts of funding, the size of ALEOs, and how they are managed.

#### **4.5 Review of Council Funding for the Voluntary Sector**

4.5.1 In discharge of a commitment made in the Council’s approved Corporate Plan 2004/7 to “review and improve the way we fund and support the community and voluntary sectors”, during 2004/5 the Business Review and Performance Committee undertook a comprehensive review of Council Funding for the Voluntary Sector. Some of the main review outcomes include:

- Council agreement to the consideration of offer of 3 year core funding support arrangements to identified priority partner voluntary and community partner organisations in certain circumstances
- Council agreement of a new corporate framework to assist the identification of priority partner voluntary and community partner organisations
- The revision to £10,000 and above being the threshold requiring a Council service agreement to be formulated and attached to any grant award
- Corporate Management Team and Committee concern to improve the Council’s current level of compliance with the Accounts Commission / CoSLA Code of Practice on Funding External Bodies, including a commitment in the new corporate framework to ensure that all funding is provided under arrangements which ensure full compliance with the Code of Guidance.

## **5. COUNCILLORS' ROLE IN COMMUNITY PLANNING**

5.1 The Local Government in Scotland Act 2003 is a key aspect of the Scottish Executive's modernisation agenda for local government and the Act provides a framework to enable the delivery of better, more responsive public services.

5.2 The Act also provides a statutory basis for Community Planning in Scotland to ensure long-term commitment to effective partnership working with communities and between local authorities and other key bodies and organisations.

5.3 The Council has a statutory duty to initiate, facilitate and maintain Community Planning under the Local Government in Scotland Act 2003. The statutory basis for community planning was to ensure long-term commitment to effective partnership working with communities and between local authorities and other key bodies and organisations.

5.4 Councillors' roles on Outside Bodies follow similar principles to their role in Community Planning. Guidance for maintaining good governance should always be applied in accordance with the Good Governance Standards for Public Services as follows:

5.4.1 The function of governance is to ensure that an organisation or partnership fulfils its overall purpose, achieves its intended outcome for citizens and service users, and operates in an effective efficient and ethical manner. This principle should guide all governance activity.

5.4.2 Good governance also requires all concerned to be clear about the functions of governance and their own roles and responsibilities and those of others and to behave in ways that are consistent with those roles. Being clear about one's own role and how it relates to others, increases the chance of performing the role well. Clarity about roles also helps all stakeholders to understand how the governance system works and who is accountable for what.

### **Clifden Consultancy- Review of Community Planning**

5.5 In April 2006, Clifden Consultancy carried out a review of certain aspects of community planning as agreed by the Council's Corporate Policy Committee. Those Councillors who were interviewed expressed a wide range of views about the principles and effectiveness of community planning at both a strategic and operational level.

5.6 Councillors expressed pride in their three broad roles of strategic leadership, scrutiny of decision making and local advocacy. In particular Councillors were keen that their leadership role would be reflected in a Member-led Council with officers implementing the articulated political vision and priorities.

5.7 The findings from the review showed an awareness by Councillors of the significance of Community Planning as a statutory responsibility and the critical role it plays in best value reviews of Councils.

5.8 The Improvement Service is a partnership between the Scottish Executive, the Convention of Scottish Local Authorities (COSLA) and the Society of local authorities

Chief Executives (SOLACE). It provides guidance for Councillors on their role in partnership working, stating that leadership is often found to be a fine balancing act between on one hand, carrying out their statutory duty as leaders and coordinators of the community planning initiative and on the other hand, not dominating Community Partnerships as good partnership is, by definition, egalitarian with all partners of equal stature in deliberative processes.

**6. MONITORING AND REVISION TO SCHEME**

6.1 The Scheme for Representation on Outside Bodies forms part of the Council's Standing Orders and is therefore subject to review and amendment as appropriate.

6.2 The Director, Chief Executive Service is authorised to make any necessary amendment to or correct any error in this Scheme which is of an administrative nature.